

### **REMARKS/ARGUMENTS**

Applicants have reviewed and considered the Final Office Action mailed on April 9, 2009, and the reference cited therewith. Claims 1-4, 6, 8-22, and 25 are currently pending in the application. Applicants amend Claims 1 and 6. Support for the amendment can be found at least in Figure 2B of Applicants' disclosure. No new matter is being introduced by way of the amendments. Reconsideration and allowance of all pending claims are respectfully requested in view of the following remarks.

#### **Examiner Interview**

Applicants thank Examiner Kane for conducting a telephone interview with Applicants on July 14, 2009. The amended limitation to Claim 1 and 6 was discussed during the interview. Examiner Kane appeared to agree that the amended limitation further clarified and distinguished the recited claims from the prior art. However, no agreement was reached.

#### **Rejections under 35 U.S.C. § 103**

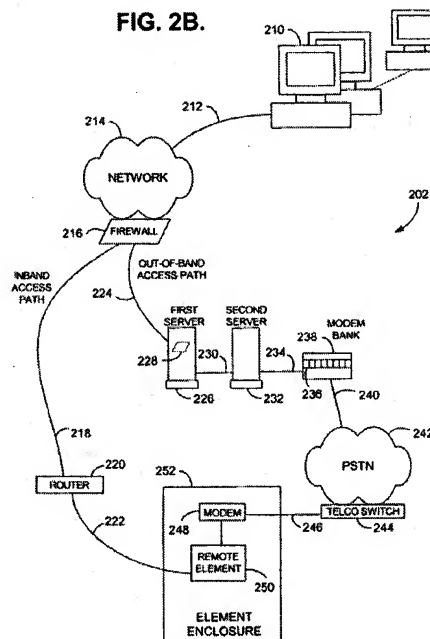
Claims 1-4, 6, 10-14, 16-22, and 25 stand rejected under 35 U.S.C. § 103 as being unpatentable over Staples et al. (U.S. Publication No. 2002/0118671) (hereinafter "Staples") in view of Smith et al. (U.S. Publication No. 2003/0018916) (hereinafter "Smith").

#### **Standard**

The Examiner bears the burden of establishing a *prima facie* case of obviousness based on the prior art when rejecting claims under 35 U.S.C. §103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). When evaluating claims for obviousness under 35 U.S.C. 103, all the limitations of the claims must be considered and given weight. *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983) *aff'd* mem. 738 F.2d 453 (Fed. Cir. 1984). In other words, all words in a claim must be considered in judging the patentability of that claim against the prior art. MPEP § 2143.03 (emphasis added). Further, rejections based on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *Teleflex Inc. v. KSR Int'l Co.*, 550 U.S. at 1, 82 USPQ2d at 1396 (2007).

## ARGUMENTS

Claims 1 and 6 are amended to include the limitation “wherein the in-band access path from the firewall to the remote network element and the out-of-band access path from the firewall to the remote network element are two distinct paths.” Figure 2B, depicted below, provides an embodiment that illustrates the claim amendment.



Applicants' disclosure, Figure 2B.

The combination of the cited references does not appear to disclose or even suggest the limitation “wherein the in-band access path from the firewall to the remote network element and the out-of-band access path from the firewall to the remote network element are two distinct paths.” For instance, Staple’s Figure 4, as depicted below, does not appear to provide two distinct paths from the firewall 121 to telephone server 110.

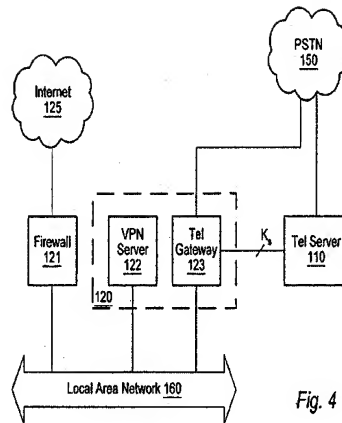


Fig. 4

Staple's Figure 4.

Accordingly, amended Claims 1 and 6 appear to further distinguish the invention over the combination of the prior art. Therefore, Claims 1, 6, and the claims depending therefrom appear patentable over the cited art.

Additionally, Applicants believe that Claim 11 as previously presented is patentable over the combination of the cited references because the combination of Staples and Smith does not appear to disclose or even suggest all limitations recited in Claim 11. For example, the combination of Staples and Smith does not appear to disclose or even suggest "direct a server to identify one of a plurality of modems located in a modem bank that can provide feedback related to said network device." First and foremost, the Examiner admits and Applicants agree that Staples does not disclose or even suggest a modem bank. Thus, it is inherently impossible for Staples to disclose or even suggest directing a server to identify one of a plurality of modems located in a modem bank that can provide feedback related to said network device. Although, the office action relies on Smith for disclosing a modem bank, the mere disclosure of a modem bank does not teach or event suggest "identify[ing] one of a plurality of modems located in a modem bank that can provide feedback related to said network device" as recited in Claim 11. Further, the portion of Staples relied upon by the office action (Staples, par. 139) does not disclose or even suggest a modem that provides feedback related to the network device. For at least the above reasons presented above, Claim 11 and the claims depending therefrom appear patentable over the cited art.

In addition, Smith appears to teach away from the use of a modem bank. For instance, Smith does not actually employ the use of a modem bank in its secure remote access service delivery system. Further, Smith states that the use of a modem bank comes with many disadvantages. For

example, Smith states “[b]oth options involve paying long distance phone charges through a remote or destination local exchange company (LEC), and require extensive staff and equipment to provide a secure connection over a public network or to operate a phone bank. Also, the client device 101 typically must have some type of encryption software installed and configured to support secure communication over a public network 119, which adds software and support expense to the dial-in client as well as to the destination.” (Smith, pars. [0016]-[0017]) (emphasis added). In fact, Smith’s invention attempts to address the problems associated with the use of a modem bank. (See Smith, par. [0017]). Therefore, when taken in its entirety, Smith clearly teaches away from the use of a modem bank. Thus, one of ordinary skill in the art would not have combined the Smith reference with the Staples reference to come up with the claimed invention. Accordingly, for at least the reasons presented above, Claims 1-4, 6, 10-14, 16-22, and 25 appear patentable over the cited art.

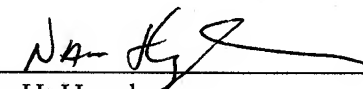
### CONCLUSION

For the foregoing reasons, and for other apparent reasons, Applicants respectfully request reconsideration and favorable action. If the Examiner feels a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

Applicants believe no fee is due. However, if a fee is due, please charge our Deposit Account No. 19-3140, under Order No. 11000060-0043 from which the undersigned is authorized to draw.

Dated: July 16, 2009

Respectfully submitted,

By   
Nam H. Huynh

Registration No.: 60,703

SONNENSCHN NATH & ROSENTHAL LLP

2000 McKinney Ave, Suite 1900

Dallas, Texas 75201

(214) 259-0971 (Direct)

(214) 259-0910 (Fax)

Attorney for Applicants